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Remarks by Julie Archer to Governor's Judicial Reform Commission

West Virginians have seen first hand the way that big spending by both candidates and independent groups can have a negative affect on judicial elections. Now that high-dollar court battles have become the norm, candidates' and sitting justices' campaigns must routinely raise money from special interests and attorneys whose cases they may later decide. With independent groups also spending heavily in Supreme Court races, getting on the bench has never been more expensive.

Unfortunately, this flood of campaign money and the subsequent refusal of justices to step aside in cases involving high profile contributors has damaged the concept of an independent judiciary and given rise to concern that justice is for sale. We believe the best way to rein in campaign costs, keep special interest money out of the courtroom and eliminate the resulting perception that justice is for sale, is to adopt a system of full public financing for judicial campaigns.

In West Virginia and around the county, polling shows overwhelming concern about the impact of special interest money on the integrity of our courts. For example, a poll conducted earlier this year by USA Today found that more than 90% of those surveyed believe judges should not hear cases involving individuals or groups that contributed to their campaign.

Polls also show that voters want to know who's financing political campaigns. A poll conducted in early April 2008 and financed by the Affiliated Construction Trades Foundation found that 87% of the respondents felt that it was "very" or "somewhat important" to them to know who gives to candidates' campaigns when deciding who to vote for.

With regard to the WV Supreme Court race, 48% said knowing that a candidate had received large contributions from corporations would make it "much less likely" that they would vote for a candidate, and 34% said that they would be "somewhat less likely" to support the candidate – meaning 82% of respondents disapprove of accepting such contributions. Accepting large contributions from trial lawyers drew similar criticism.

Simply put – West Virginia voters care about where candidates get their money and they don't seem to like the way judicial campaigns are financed.

Although voters have concerns about where the money for campaigns comes from and the impact this money has on the fairness, impartiality and independence of our courts, polls also show that a majority of voters believe that Supreme Court justices should be elected. We share this opinion and feel that the heart of the problem with the current

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system is the pervasiveness of special interest money in judicial elections, particularly money supplied by those with cases before the court. We disagree with those who see non-partisan elections as a solution, and feel that partisanship has played little if any role in the damage done to the reputation of our courts.

We also feel strongly that voters have a right to know who's contributing to both the candidates and the independent groups trying to influence our elections and that the state has a compelling interest in requiring not only disclosure of such information, but also easy public access, so that the voters can be fully informed.

As proposals are considered to reduce undue influence on our courts from wealthy and powerful groups and individuals accused of wrongdoing, public financing should continue to be explored. Additional measures to protect our electoral process from the corrupting influence of significant unreported (and underreported) expenditures by independent organizations should also be considered.

Public financing, coupled with strong disclosure requirements for third party groups trying to influence to outcome of judicial elections, can help reduce the negative impacts of money while still leaving the selection of justices up to the voters.

Public financing reduces special interest funding, along with real or perceived conflicts of interest, by providing candidates with an alternative source of "clean" funding so they don't have to rely on attorneys and others who appear or might appear before the court.

Public financing would also increase the diversity of candidates, and would allow qualified individuals to run who find the current system cost prohibitive or who are deterred by the task of trying to raise campaign funding.

Public financing is working well in other states and we believe it is a sensible approach to helping West Virginia restore public confidence in the integrity of our judicial system.

We appreciate the opportunity to share our views with the Commission and thank you for your consideration.